

NO. PD-0556-18

KARL DEAN STAHMANN

§

IN THE COURT OF

COURT OF CRIMINAL APPEALS

v.

§

3/26/2019

§

CRIMINAL APPEALS

§

THE STATE OF TEXAS

§

OF TEXAS AT AUSTIN

STATE'S LETTER RESPONSE

TO THE HONORABLE JUDGES OF SAID COURT:

Now comes the State of Texas and files this its *Letter Response*, and would respectfully show unto this Honorable Court the following:

In reviewing the March 6, 2019 oral argument video, the Honorable Judge Hervey asked for the State's proposed definition for "alter." When read with the "broadest possible understanding to which [the term is] reasonably susceptible in the English language,"¹ "alter" should encompass a change in the physical or geographical location of evidence, and would be tampering when done with the requisite intent. The Cambridge Dictionary defines "alter" as "to change something, usually slightly, or to cause the characteristics of something to change."²

In the alternative, at the very least – and consistent with the manifest purpose of the statute – "alter" should include "any change to a record, document, or thing's context, verity, significance, or intrinsic evidentiary characteristic."

¹ *Tyra v. State*, 897 S.W.2d 796, 797 (Tex. Crim. App. 1995).

² *Alter*, CAMBRIDGE ENGLISH DICTIONARY, <https://dictionary.cambridge.org/dictionary/english/alter> (last visited March 20, 2019).

- For example, if John moves his candlestick murder weapon from the bedside table in John’s room to the bedside table in Bill’s room—without changing anything else—he has altered the context and an intrinsic evidentiary characteristic of the candlestick: its location. It is now removed from John and is in the possession of or in close proximity to Bill – potentially implicating Bill.
- In the instant case, Appellant’s taking the pill bottle from his person and throwing it away from the crash scene and over a fence altered the context of the evidence, including an important intrinsic evidentiary characteristic of the bottle. The pill bottle’s proximity is particularly significant given its importance under the ‘affirmative links’ doctrine.

In either example, even if a third party witnessed the events and *extrinsic* testimony could help show the evidentiary significance of the item (*e.g.* “I saw John move the candlestick...” or “we saw Appellant throw the pill bottle”), the context of the evidence and an *intrinsic* evidentiary characteristic has still been altered.

Accordingly, the State respectfully submits the foregoing *Letter Response*.

Respectfully submitted,

/s/ Jacqueline Hagan Doyer

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Certificate of Service

I, Jacqueline Hagan Doyer, attorney for the State of Texas, Appellee, hereby certify that a true and correct copy of this *State's Letter Response* has been sent to Appellant KARL DEAN STAHMANN's attorney of record in this matter, along with the State Prosecuting Attorney's office:

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By electronically sending it through efile.txcourts.gov to the foregoing email addresses on this, the 21st day of March, 2019.

/s/ Jacqueline Hagan Doyer
Jacqueline Hagan Doyer